



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,463	08/26/2003	David T. Zwolinski	85939.000292	5382

23387 7590 11/30/2004

Stephen B. Salai, Esq.
Harter, Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, NY 14604-2711

EXAMINER

PICKARD, ALISON K

ART UNIT	PAPER NUMBER
----------	--------------

3676

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/649,463

Applicant(s)

ZWOLINSKI ET AL.

Examiner

Alison K. Pickard

Art Unit

3676

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Applicant is advised that should claim 26 be found allowable, claim 39 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 41 is rejected under 35 U.S.C. 102(b) as being anticipated by Nozaki (5,207,029).

Nozaki discloses a weatherseal comprising a sealing surface defined by at least a cellular portion 321 and a non-cellular portion 322.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 8-11, 16-18, 21-24, 26-32, 35-43, 46 and 47 are rejected under 35 U.S.C.

103(a) as being unpatentable over Nozaki in view of Bova (5,314,752).

Nozaki discloses a weather seal comprising a sealing bulb 31 of dense material and a sealing surface. The seal comprises a cellular sealing portion 31 or 321 of polymeric material having an outer sealing surface. The sealing portion can comprise a bulb, finger or flap. Nozaki does not disclose that the sealing surface is defined a freeze release material. Bova teaches a weather seal. Bova teaches forming a sealing surface of the seal with two materials, one being a freeze release material. Bova teaches various materials (including thermosets and thermoplastics) for both portions that cooperate well together (see col. 3, line 65 through col. 4 line 45). The freeze release material can also include particles (col. 3, lines 3-34). Bova teaches using the freeze release material to improve the seal with a desired freeze release and coefficient of friction. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the weather seal of Nozaki with the teachings of Bova to produce an improved seal with desirable freeze release and friction properties.

6. Claims 1-3, 5-31, and 33-45 rejected under 35 U.S.C. 103(a) as being unpatentable over Saint-Louis Augustin (5,005,317) in view of Bova.

Saint-Louis Augustin discloses a weather seal with a cellular seal portion 31 formed of a polymeric material. An outer sealing surface is defined by two, different materials 31 and 37. The second material 37 is formed in strips, bands, random patterns, is projecting, and is flush (at tip). Saint-Louis Augustin does not disclose that the second material 37 is a freeze release material. Bova teaches a weather seal. Bova teaches forming a sealing surface of the seal with two materials, one being a freeze release material. Bova teaches various materials (including thermosets and thermoplastics) for both portions that cooperate well together (see col. 3, line 65 through col. 4 line 45). The freeze release material can also include particles (col. 3, lines 3-34).

Art Unit: 3676

Bova teaches using the freeze release material to improve the seal with a desired freeze release and coefficient of friction. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the weather seal with the teachings of Bova to produce an improved seal with desirable freeze release and friction properties.

Regarding claims 14 and 25, making the freeze release area between 1/3 to 2/3 of the sealing surface area is considered a design choice. It is not considered inventive to discover the workable or optimum ranges by routine experimentation. See *In re Aller*, 105 USPQ 233, 235 (CCPA 1955). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to make the freeze release area between 1/3 to 2/3 of the sealing surface area as a matter of choice in design.

Conclusion


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 703-305-0882. The examiner can normally be reached on M-F (10-7:30), with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3676

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Alison K. Pickard
Primary Examiner
Art Unit 3676

AP
